

**UNIVERSITY OF BALTIMORE GRADUATE TAX PROGRAM/SCHOOL OF LAW
FALL 2017**

General Information and Syllabus

Course: Corporate Taxation
LAWT/951/491; TAXA/652/186; LAW/951/512

Instructor: Professor Fred Brown
Office: AL 540
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Email: fbrown@ubalt.edu
Office Hours: Tuesday/Thursday, 4 pm to 5:30 pm; also by appointment

Days/Time: Monday, 6:15 to 9:00 pm

Location: Room assignments are available through MyUB.

Catalog Description:

Federal income taxation of corporations and their shareholders with emphasis on the formation of the corporation, capital structure, operational alternatives, distributions, partial and complete liquidations, personal holding companies, and the accumulated earnings tax. Formation, operation, and liquidation of S-corporations are also covered.

Required Course Materials:

Schwarz & Lathrope, Fundamentals of Corporate Taxation (Ninth Edition) (“Schwarz”) (ISBN: 978-1-63459-602-2)
Internal Revenue Code (“Code”)
Regulations (“Regs”)

With regard to the Code and the Regs, **you may use either the complete versions of these authorities or a selected sections version**, the latter being Bank and Stark, Corporate and Partnership Income Tax Code and Regulations: Selected Sections (2017-2018 Edition). Please note that while this selected sections version contains nearly all of the Code and Regs sections that are assigned for the course, some sections, or parts of sections, are missing. Consequently, if you decide to use the selected sections version of the Code and Regs, on occasion you will need to go outside of this publication (*e.g.*, on the internet, library) in order to review certain sections.

Student Learning Outcomes:

- Explain Federal income tax rules governing the tax treatment of corporations and shareholders.
- Make use of the policy underlying these rules.
- Identify legal issues related to the tax treatment of corporations and shareholders.
- Apply and analyze statutory and regulatory provisions governing the tax treatment of corporations and shareholders in the context of factual situations.

Grades:

There will be one open book, time pressured, three-hour exam given at the end of the semester. Ninety percent of your grade will be based on the final exam, and ten percent of your grade will be based on class participation.

Course Expectations:

American Bar Association Standards for Law Schools establish guidelines for the amount of work students should expect to complete for each credit earned. Students should expect approximately one hour of classroom instruction and two hours of out-of-class work for each credit earned in a class, or an equivalent amount of work for other academic activities, such as simulations, externships, clinical supervision, co-curricular activities, and other academic work leading to the award of credit hours.

You are expected to complete all reading and problem assignments before class and to participate consistently in class discussion to demonstrate that you have read and reflected on the material in the assignment. This course involves difficult tax rules and concepts, and thus it is very important that you prepare for class, which includes working through the assigned problems in the textbook. Moreover, it is important to keep your class preparation current. Much of the course will be built on subjects previously discussed, and the various Code and Regs sections work in conjunction with one another. If you miss and/or do not prepare for one class, the next class may use terms and concepts you do not understand, which will compound the difficulty of understanding this complex area of the tax law. Moreover, as mentioned above, part of your grade will be based on class participation.

Please be sure to raise any unaddressed questions you still have after class, during office hours, by appointment, through e-mail: fbrown@ubalt.edu, or by phone: 410-837-4537. In addition, as we will be actively using TWEN to address and discuss issues students raise outside of class, posting your query on TWEN will serve a very useful contribution. I will be monitoring and responding to queries on TWEN on a regular basis.

Attendance:

Class attendance is a primary obligation of each J.D. student whose right to continued enrollment in the course and to take the examination is conditioned upon a record of attendance satisfactory to the professor. A J.D. student who exceeds the maximum allowed absences may be compelled to withdraw from the course, or may be barred from sitting for the final exam. J.D. students who are forced to withdraw for exceeding the allowed absences may receive a grade of FA (failure due to excessive absence). In this course, J.D. students are allowed a maximum of two absences. Attendance will be taken at the beginning of each class. Attending a class online counts as being present.

While LL.M. and M.S. students should endeavor to attend each class, there is no attendance policy applying to these students.

Course Website:

You are required to register for this course on TWEN, and you must use your UBALT address as your TWEN e-mail address as per University Policy. You are responsible for all information posted on or disseminated from TWEN.

Computers:

Students may use laptop computers for class related purposes, as well as on the exam (with the School-provided exam software).

Class Cancellation:

If I must cancel a class, notices will be sent to students via the University of Baltimore e-mail system and posted on the classroom door. If there is inclement weather, students should visit the University of Baltimore web page or call the University's Snow Closing Line at (410) 837-4201. If the University is not closed, students should presume that classes are running on the normal schedule.

Academic Integrity:

Students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University and/or the School of Law. Violations of academic integrity include, but are not limited to: cheating; plagiarism; misuse of library materials; use of another's book or study materials without consent; unapproved multiple submissions; material misrepresentation of one's academic history or standing; misrepresentation of any academic matter; intentionally giving another student false or inaccurate information about class requirements; inappropriate discussion of exams; and misrepresenting or falsifying class attendance reports.

LL.M. and M.S. students must adhere to the University of Baltimore's Academic Integrity Policy, which can be found at

http://www.ubalt.edu/campus-life/student-handbook.cfm#Academic_Integrity.

J.D. students must adhere to the School of Law Honor Code. The School of Law Honor Code and information about the process is available at https://law.ubalt.edu/academics/policiesandprocedures/honor_code/index.cfm

Title IX Sexual Harassment and Sexual Misconduct Policy:

The University of Baltimore's Sexual Harassment and Sexual Misconduct policies are compliant with Federal laws prohibiting discrimination. Title IX requires that faculty, student employees and staff members report to the University any known, learned or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence or sexual exploitation and/or related experiences or incidents. Policies and procedures related to Title IX and UB's nondiscrimination policies can be found at: <http://www.ubalt.edu/titleix>.

Disability Policy:

If you are a student with a documented disability who requires an academic accommodation, please contact Leslie Metzger, Director of Student Services at 410-837-5623 or via email at lmetzger@ubalt.edu.

First Class Assignment:

Please do the assignments under topic I and topic II of the Syllabus (below).

Syllabus:

I. Introduction

Code: §§ 11, (*skim 63(a), 1211(a), 1212(a)(1), 170(b)(2), 267(a), 53, 55, 56(a)(1)(A), (c), (g)(1), (2), (3), (4)(A)-(C)(ii), (6), 57(a)(5), (6), 280H, 441, 444, 448, 1501, 1502, 1503, 1504(a), (b), 1561, 1563*).

Schwarz: pp. 3-31, 43 (starting with "E. Tax Policy Issues") -52.

II. Corporate Classification

Code: §7701(a)(3), *skim § 7704*

Regs: § 301.7701-1(a)(1), (a)(2), -2(a), (b)(1)-(7), (c)(1), (c)(2)(i), -3(a), (b)(1).

Schwarz: pp. 32-39 (before "D. Recognition of the Corporate Entity")

III. Corporate Formation

- Code: §§ 351(a), (b), (d)(1)-(2), (*skim (g)*), 358(a), (b)(1), (d); 362(a), (d)(1), (e)(2); 368(c); 1032(a); 1223(1), (2), 1245(b)(3), 83(a)-(c), 453(a)-(d), (i), 357, 118(a), (*skim 248*)
- Regs: §§ 1.351-1(a), (b), 1.351-2(a), Prop. Reg. § 1.351-2(b), 1.358-2(b), -3, 1.1032-1(a), (d), 1.357-1, -2,
- Schwarz: pp. 55--113 (skip all cases except *Intermountain Lumber* (p.61) and *Hempt Brothers* (p 99), but read revenue rulings)
- Problems: pp. 59-60; 69-70; 79; 98, #1; 108-109

IV. Capital Structure

- Code: §§ 385, 165(g), 166 (a), (d), (e), 1244
- Schwarz: pp. 115-149
- Problems: pp. 145; 149-150

V. Nonliquidating Distributions

- Code: §§ 243(a), (b)(1), (c), 301(a)-(d), (f)(4), 316(a), 317(a), 312(a)-(c), (f)(1), (k)(3), 311, (*skim 312(n), (o), 1273(a)(1), 7872(a), (c)(1)(C), 246(a)(1), (b), 246(c), 246A, 1059(a)-(d), (skim 1059(e)), 1(h)(11)*)
- Regs: §§1.301-1(c), 1.316-1(a)(1)-(2), 1.312-6(a), (b), (d) (first sentence), 1.312-7(b)(1), 1.301-1(a), (b), 1.316-2(a)-(c), 1.312-3, 1.301-1(d)(1)(ii), 1.301-1(j) (first sentence)
- Schwarz: pp. 151-196 (skip cases except *TSN Liquidating Corp.* (p. 184), but read revenue rulings)
- Problems: pp. 161; 166; 171 (skip “e”); 184; 196-197

VI. Redemptions and Partial Liquidations

- Code: §§ 302, 317(b), 318, 311, 312(n)(7), 304 (except (b)(3)(C), (D), (b)(4)-(6)), 303(a), (b)(1)-(3), (*skim 6166*)
- Regs: §§ 1.318-1(a), (b), -2, -3, -4, 1.302-2, -3, -4, Prop. Reg. § 1.302-5(a)(1), (a)(3), (b)(4)(i)
- Schwarz: pp. 199-261, 279-284 (before *Niedermeyer*), 292-294
- Problems: pp. 205, #2; 209, #1; 227-228, #2; 242, #1; 247-248; 250-251; 255-256; 292, #2

VII. Stock Dividends and Section 306 Stock

- Code: §§ 305(a)-(d), 306(a)-(e), (g), 317(a), 307, 312(d)(1)(B), 1223(4)
- Regs: §§ 1.305-1, -2, -3(a)-(c), (e) Examples (1)-(4), (8), (10), (11), -4, -5(a), -6, -7(a), 1.307-1, 1.306-3(a)-(c), (e), 1.306-1, -2,
- Schwarz: pp. 295-314
- Problems: pp. 308, #1; 321, #1 (skip (f), (h), (i))

VIII. Complete Liquidations

- Code: §§ 331, 334(a), 346(a), 453(h)(1)(A), (B), 336(a)-(d), (*skim 267(a)(1), (b), (c), 332(a), (b), 334(b), 1223(2), 337(a), (b)(1), (c), (skim 381(a)(1), (c)(2), (3), 453B(d), 1245(b)(3), 1250(d)(3))*)
- Regs: §§ 1.331-1(a), (b), (e), 1.332-1, -2 (skip (d) and (e)), -5, -7
- Schwarz: pp. 323-352 (skip cases)

Problems: pp. 327-328 (skip (e)); 340-341, #1; 353, #1

IX. Anti-Avoidance Provisions

Code: §§ 7701(o), 531, 532, 533(a), 534(a)-(c), 537(a), (b)(1), 535(a), (b) (skip (5) through (10)), (c), 561, 562(a), (b), (c), 563(a), (b), 565(a)-(d), (f), 541, 542(a), (c), 544(a), (*skim 543*), 545(a), (b), 316(b)(2), (*skim 564, 547*)

Regs: §§ 1.537-1(a), (b), -2, -3

Schwarz: pp. 623-666 (skip *United Parcel Service of America, Inc. v. Commissioner* (p. 625))

Problems: pp. 655, #1; 666, #1

X S-Corporations

A. Introduction, Eligibility

Code: §§ 1361

Schwarz: pp. 671-679

Problem: pp. 679-680

B. Election, Revocation and Termination

Code: §§1362 (omit (e) (5), (6)), 1378, (*skim 444, 7519*)

Schwarz: pp. 681-685

Problem: pp. 685-686

C. Treatment of the Shareholders

Code: §§1363(b), (c), 1366(a)-(d), 1367, (*skim 248, 1371(b), 1377, 1366(f)*), 362(e)(2), 1(h)

Schwarz: pp. 686-700

Problems: 700-701, ## 1, 3

D. Distributions to Shareholders

Code: §§1368, 1371(a), (c), (e), 311(a)(2), 311(b)(1), (*skim 301(a), (b), (c) and (d), 453B(h)*)

Schwarz: pp. 702-704

Problems: pp. 704, #1

E. Taxation of the S-Corp.

Code: §§1363, 1374, 1375, (*skim 1366(f)(2), (3)*)

Schwarz: pp. 705-710

F. Coordination with Other Income Tax Provisions

Code: §§ 1371, 1372

Schwarz: pp. 712-719

G. Compensation Issues

Schwarz: pp. 719-725